
STATUTORY INSTRUMENTS

2001 No. 3592

The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001

PART VIII

PARTLY COMPLETED EXERCISE OF EEA RIGHTS

CHAPTER II

UK FIRMS

Establishment of a branch by UK firm

100.—(1) This article applies to a UK firm within the meaning of Schedule 3.

(2) But this article does not apply where the conditions in paragraph 19(2) to (5) of that Schedule are by virtue of article 77 of the Authorised Persons Order treated as satisfied.

(3) If, before commencement—

- (a) a notice in accordance with paragraph 2 of Schedule 6 to the 2BCD Regulations or ISD Regulations was given by the firm for the purposes of paragraph 1(2)(a) of that Schedule; or
- (b) a notice was given by the firm in accordance with paragraph 1(2)(a) of Schedule 2G(1) to the Insurance Companies Act or paragraph 1(2)(a) of Schedule 13B(2) to the Friendly Societies Act,

and the case does not fall within paragraph (4), the notice is to be treated as the notice of intention required by paragraph 19(2) of Schedule 3 (and hence as satisfying the first condition for the purposes of paragraph 19(6) and (7)) and, if it was not given to the Authority as required by paragraph 1(2), as having been so given.

(4) The case falls within this paragraph if in response to the notice a notice of refusal was given to the firm under—

- (a) paragraph 4(6) of Schedule 6 to the 2BCD or ISD Regulations; or
- (b) paragraph 1(5) of Schedule 2G to the Insurance Companies Act or of Schedule 13B to the Friendly Societies Act,

and the refusal was not at commencement capable of being reversed on an appeal, a reference to a tribunal or a review as mentioned in paragraph 4(6) of Schedule 6 to the 2BCD or ISD Regulations.

(5) If, before commencement—

- (a) a notice as mentioned in paragraph 3(1) or (2) of Schedule 6 to the 2BCD Regulations was given as respects the firm under paragraph 1(2)(b) of that Schedule;

(1) Schedule 2G was inserted by the 3ID Regulations and has been amended by S.I.1997/2781.

(2) Schedule 13B was inserted by S.I. 1994/1984 and has been amended by S.I. 1997/2489.

- (b) a notice as mentioned in paragraph 3 of Schedule 6 to the ISD Regulations was given as respects the firm under paragraph 1(2)(b) of that Schedule; or
- (c) a notice and certificate were given as respects the firm under paragraph 1(2)(b) of Schedule 2G to the Insurance Companies Act or paragraph 1(2)(b) of Schedule 13B to the Friendly Societies Act,

the notice is (or the notice and certificate are) to be treated as the consent notice required by paragraph 19(4) of Schedule 3 and, if given otherwise than by the Authority, as having been given by the Authority.

Provision of services by UK firm

101.—(1) This article applies to a UK firm within the meaning of Schedule 3.

(2) But this article does not apply where—

- (a) the condition in paragraph 20(1) of Schedule 3 is by virtue of article 77(4) of the Authorised Persons Order treated as satisfied; or
- (b) by virtue of article 77(6) of the Authorised Persons Order, the consent notice is deemed to have been given by the Authority under paragraph 20(3A)(a) of Schedule 3 and the notice required by paragraph 20(4B) of that Schedule is deemed to have been received by the firm.

(3) If, before commencement a notice was given by the firm under—

- (a) paragraph 5(2)(a) of Schedule 2G to the Insurance Companies Act; or
- (b) paragraph 5(2)(a) of Schedule 13B to the Friendly Societies Act,

and the case does not fall within paragraph (4), the notice is to be treated as the notice of intention required by paragraph 20(1) of Schedule 3 and, if it was not given to the Authority as required by paragraph 20(1), as having been so given.

(4) The case falls within this paragraph if in response to the notice a notice of refusal was given to the firm under paragraph 5(6) of Schedule 2G to the Insurance Companies Act or paragraph 5(6) of Schedule 13B to the Friendly Societies Act.

(5) If before commencement a notice and certificate were given as respects the firm under paragraph 5(2)(b) of Schedule 2G to the Insurance Companies Act or paragraph 5(2)(b) of Schedule 13B to the Friendly Societies Act, the notice and certificate are to be treated as the consent notice required by paragraph 20(3A)(a) of Schedule 3 and, if given otherwise than by the Authority, as having been given by the Authority.